

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

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|---|---|--------------------------------------|
| <b>DANIEL ARTHUR HELEVA,</b>            | : | <b>CIVIL ACTION NO. 3:21-CV-1012</b> |
|   | : |                                      |
| <b>Plaintiff</b>                        | : | <b>(Judge Conner)</b>                |
|   | : |                                      |
| <b>v.</b>                               | : |                                      |
|   | : |                                      |
| <b>MARK S. MATTHEWS, <i>et al.</i>,</b> | : |                                      |
|   | : |                                      |
| <b>Defendants</b>                       | : |                                      |

**ORDER**

AND NOW, this 27th day of December, 2021, upon consideration of the “Independent Action Evidencing Fraud Upon the Court” filed *pro se* by plaintiff Daniel Arthur Heleva, which pleading Heleva claims is either a motion or action in equity pursuant to various subsections of Federal Rule of Civil Procedure 60, and further upon consideration of the report (Doc. 28) of Magistrate Judge William I. Arbuckle, which construes Heleva’s filing as a motion alleging fraud under Rule 60(d)(1) and 60(d)(3), and opines that Heleva’s construed motion is a disguised attempt to relitigate a habeas petition decided by the undersigned on January 9, 2018, see Heleva v. Brooks, No. 1:07-CV-1398, Docs. 91-92 (M.D. Pa. Jan. 9, 2018) (Conner, C.J.), as to which the Third Circuit Court of Appeals denied a certificate of appealability on August 22, 2018, see Heleva v. Superintendent Albion SCI, No. 18-1193 (3d Cir. Aug. 22, 2018), and wherein Judge Arbuckle opines that Heleva’s construed motion is thus a second or successive petition for which Heleva has not obtained preauthorization from the court of appeals, and over which this court thus lacks subject matter jurisdiction, (see Doc. 28 at 7-10), and the court noting

Heleva filed objections (Doc. 29) to the report, see FED. R. CIV. P. 72(b), and following *de novo* review of the contested portions of the report, see E.E.O.C. v. City of Long Branch, 866 F.3d 93, 99 (3d Cir. 2017) (quoting 28 U.S.C. § 636(b)(1)), and affording “reasoned consideration” to the uncontested portions, see id. (quoting Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987)), the court finding Judge Arbuckle’s analysis and recommendation to be well-reasoned and fully supported by the applicable law, and finding Heleva’s objection to be without merit and squarely and accurately addressed by the report,<sup>1</sup> it is hereby ORDERED that:

1. Magistrate Judge Arbuckle’s report (Doc. 28) is ADOPTED.
2. Heleva’s pleading (Doc. 1) is CONSTRUED as a second or successive habeas petition and is DISMISSED as so construed for lack of subject matter jurisdiction.
3. Heleva’s “motion to act in equity or recuse” (Doc. 9) and “motion for wire transmission hearing” (Doc. 11) are DENIED as moot.
4. Defendants’ joint motion (Doc. 18) to dismiss is DENIED as moot.

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<sup>1</sup> Heleva’s objection does not directly challenge any aspect of Judge Arbuckle’s reasoning. Rather, Heleva reiterates his belief, rejected by this court in denying his underlying habeas petition, that his signature on a state-court speedy trial waiver was forged. (See Doc. 29 at 1); see also Heleva, No. 1:07-CV-1398, Doc. 91 at 6-14. Heleva’s objections substantiate our conclusion that his construed motion is nothing more than a disguised second or successive habeas petition.

5. The court finds no basis to issue a certificate of appealability. See 28 U.S.C. § 2253(c); see also 28 U.S.C. § 2254 Rule 11(a).
6. The Clerk of Court is directed to CLOSE this case.

/S/ CHRISTOPHER C. CONNER  
Christopher C. Conner  
United States District Judge  
Middle District of Pennsylvania